



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 622 and 635

[Docket No. 191101-0072]

RIN 0648-BI61

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Atlantic Highly Migratory Species; Coral and Coral Reefs of the Gulf of Mexico; Amendment 9

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Amendment 9 to the Fishery Management Plan (FMP) for the Coral and Coral Reefs of the Gulf of Mexico (Amendment 9) and an associated framework action to the FMP, as prepared by the Gulf of Mexico Fishery Management Council (Council). This proposed rule would establish new habitat areas of particular concern (HAPCs), some of which include a prohibition of the deployment of bottom-tending gear, and modify current fishing regulations for the other existing HAPCs in the Gulf of Mexico (Gulf). Additionally,

this proposed rule would implement complementary management measures for Atlantic highly migratory species (HMS) in the Gulf. The purpose of this proposed rule is to protect coral essential fish habitat in the Gulf.

DATES: Written comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on this proposed rule identified by "NOAA-NMFS-2017-0146" by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0146, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Lauren Waters, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on

www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 9 and the framework action may be obtained from *www.regulations.gov* or the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/amendment-9-coral-habitat-areas-considered-management-gulf-mexico>. Amendment 9 includes a final environmental impact statement (EIS), fishery impact statement, regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis.

FOR FURTHER INFORMATION CONTACT: Lauren Waters, NMFS Southeast Regional Office, telephone: 727-824-5305; email: lauren.waters@noaa.gov. Karyl Brewster-Geisz, NMFS Highly Migratory Species Division, telephone: 301-427-8503; email: karyl.brewster-geisz@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage coral and coral reef resources in the Gulf under the FMP.

The FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS manages Atlantic HMS under the 2006 Consolidated Atlantic HMS FMP and its amendments, under the authority of the Magnuson-Stevens Act and the Atlantic Tunas Convention Act. The 2006 Consolidated Atlantic HMS FMP is implemented by regulations at 50 CFR part 635.

Background

The Magnuson-Stevens Act requires that each fishery management plan identify and describe essential fish habitat (EFH) and minimize, to the extent practicable, adverse effects on these habitats caused by fishing. The FMP describes coral EFH as those areas where managed corals exist. HAPCs are a subset of EFH that meet specified criteria identified at 50 CFR 600.815(a)(8). An area in which corals exist in sufficient numbers or diversity could be designated as an HAPC if it is significantly ecologically important, habitat that is sensitive to human-induced degradation, located in an environmentally stressed area, or considered rare in abundance. Corals and coral

habitat are especially sensitive to human-induced degradation by fishing and non-fishing activities because of their unique life history. An HAPC designation by NMFS does not confer any additional specific protections to such designated areas, but can be used to focus management attention on those areas when considering measures to minimize adverse impacts from fishing.

In December 2014, the Council convened a Coral Working Group to discuss which areas in the Gulf may warrant additional specific protection for corals. The group identified numerous new areas and existing HAPCs that may be in need of new or revised protection. In May 2015, the Council's Special Coral Scientific and Statistical Committee (SSC) and Coral Advisory Panel (AP) reviewed these areas along with members of the shrimp fishing community and recommended that the boundaries of some of the areas be refined based on available fishing information. In August 2016, the Council's Coral SSC, Coral AP, Shrimp AP, as well as Council invitees, which included royal red shrimp fishermen and bottom longline fishermen, provided input to the Council. These groups recommended that 15 new areas be designated as HAPCs in which fishing

with bottom-tending gear be prohibited and 8 areas be designated as HAPCs without any prohibitions on fishing. Based on this input, the Council began developing Amendment 9. On December 18, 2017, NMFS published a notice of intent to prepare a draft EIS for Amendment 9 in the **Federal Register** and solicited public comment (82 FR 60003).

In April 2018, based on a recommendation by the Council's SSC, the Council modified the alternatives in Amendment 9 to combine three previously proposed HAPCs in the southeastern Gulf that were separate but geographically close to one another into a single slightly smaller proposed HAPC. As a result, Amendment 9 recommends 13 new HAPCs in which fishing with bottom-tending gear would be prohibited.

During subsequent discussions associated with Amendment 9, the Council decided to refine the fishing prohibition in the proposed and existing HAPCs. The Council determined that the broad definition of "fishing" in the Magnuson-Stevens Act might unnecessarily restrict activities that would have no impact on these HAPCs. Therefore, in August 2018, the Council approved a framework action that would modify the specific prohibitions on

“fishing with bottom-tending gear” to “deployment of bottom-tending gear” for existing HAPCs listed in 50 CFR 622.74, except the Tortugas marine reserves HAPC, and those recommended in Amendment 9. Further, the Council recommended that “deploy” in this context be defined to mean that fishing gear is in contact with the water. In November 2018, the Council also requested that NMFS develop complimentary gear deployment prohibitions for Atlantic HMS fisheries in the Gulf (see 50 CFR part 635).

The management actions selected by the Council in Amendment 9 and as subsequently modified in the framework action are described in this proposed rule.

Management Measure Contained in this Proposed Rule

This proposed rule would establish 13 new HAPCs in the Gulf in which the deployment of certain bottom-tending gears would be prohibited. The proposed rule would also prohibit the deployment of dredge fishing gear in existing Gulf HAPCs that are managed with fishing regulations. Further, this proposed rule would modify the restrictions in the existing HAPCs that prohibit fishing with specific gears to prohibit the deployment of those gears. NMFS and

the Council are proposing these areas and fishing regulations to protect coral EFH in the Gulf.

HAPCs with Fishing Regulations

This proposed rule would establish 13 HAPCs in which the deployment of specified bottom-tending gear would be prohibited. For purpose of the prohibition, fishing gear is "deployed" if any part of the gear is in contact with the water. The 13 proposed HAPCs are called West Florida Wall, Alabama Alps Reef, L & W Pinnacles and Scamp Reef (combined), Mississippi Canyon 118, Roughtongue Reef, Viosca Knoll 826, Viosca Knoll 862/906, AT 047, AT 357, Green Canyon 852, Southern Bank, Harte Bank, and Pulley Ridge South Portion A. Pulley Ridge South Portion A is adjacent to the current Pulley Ridge South HAPC.

For these areas, excluding Pulley Ridge South Portion A, prohibitions on the following activities would apply year-round: deployment of bottom longline, bottom trawl, buoy gear as defined in 50 CFR 622.2, dredge, pot, or trap, and bottom anchoring by fishing vessels. The buoy gear defined in 50 CFR 622.2 is not the same as HMS buoy gear defined in 50 CFR 635.2. HMS buoy gear is not a bottom-tending gear.

Within the proposed Viosca Knoll 862/906 area, the proposed gear deployment prohibitions would not apply to a fishing vessel issued a Gulf royal red shrimp endorsement, as specified in 50 CFR 622.50(c) while fishing for royal red shrimp. The areas around this proposed HAPC are used to fish for royal red shrimp. Fishing for royal red shrimp occurs in deep waters and requires a few miles of continuous forward movement to lift the nets up in the water column to the vessel. Therefore, requiring that these nets be out of the water would effectively prevent the use of an area much larger than the proposed HAPC. The exemption would allow royal red shrimp fishermen to continue the historic practice of lifting the nets off the bottom but keeping them in the water as they travel through this area.

Within the proposed Pulley Ridge South Portion A area, the following prohibitions would apply year-round: deployment of a bottom trawl, buoy gear as defined in 50 CFR 622.2, dredge, pot, or trap, and bottom anchoring by fishing vessels. Pulley Ridge South Portion A would not include a restriction on the deployment of bottom longline gear to allow fishing that has historically occurred in

this area to continue. This proposed rule would not change any other boundaries or regulations within the existing Pulley Ridge HAPC.

The Council concluded that the exception for royal red shrimp fishing in the proposed Viosca Knoll 862/906 area and for bottom longline fishing in the proposed Pulley Ridge South Portion A area was unlikely to adversely affect the habitat. Both types of fishing have occurred in the respective areas for over a decade without causing significant harm.

Dredge Fishing Prohibition

Currently, only some existing HAPCs in the Gulf have fishing regulations that prohibit dredge fishing within the designated areas. This proposed rule would prohibit the deployment of dredge fishing gear in all existing HAPCs in the Gulf in which other bottom-tending gear are already prohibited. Dredge fishing is most commonly used to harvest shellfish and is not known to occur in the Gulf. Therefore, this proposed management measure would not restrict any known fishing activity in the Gulf, but increase consistency of management measures across HAPCs with fishing regulations.

Fishing Restrictions in Existing HAPCs

This proposed rule would modify restrictions associated with bottom-tending fishing gear in the existing HAPCs. Currently, the regulations at 50 CFR 622.74 prohibit “fishing” in the existing HAPCs with bottom-tending gear with specific types of gear prohibitions varying by HAPC. As explained above, the Council determined that it was more appropriate to prohibit the “deployment” of bottom-tending gear. Therefore, this proposed rule would change the prohibition for existing HAPCs listed in 50 CFR 622.74, other than the Tortugas marine reserves HAPC, to prevent the deployment of the bottom-tending gear to be consistent with the prohibition in the proposed HAPCs. The Tortugas marine reserves HAPC already has a broader prohibition on all fishing and anchoring by fishing vessels.

HMS Fisheries in the Gulf

This proposed rule would modify regulations at 50 CFR 635.21 for Atlantic HMS fisheries that operate in the Gulf to complement the proposed fishing vessel anchoring and gear deployment prohibitions in 50 CFR 622.74.

**Management Measure Contained in Amendment 9 but not
Codified Through this Proposed Rule**

Amendment 9 would also establish eight HAPCs with no associated fishing regulations. The Council determined that fishing regulations in these eight proposed HAPCs are unnecessary because there is no known fishing activity that occurs within them, partly because the areas are located in very deep water (greater than 984 ft or 300 m). The proposed HAPCs without fishing regulations in Amendment 9 are South John Reed, Garden Banks 299, Garden Banks 535, Green Canyon 140 and 272 (combined), Green Canyon 234, Green Canyon 354, Mississippi Canyon 751, and Mississippi Canyon 885. Although fishing impacts were not identified as a concern in these eight areas, establishing these HAPCs would inform the public that the Council considers these areas to be of particular importance and could help guide NMFS' review of non-fishing impacts during EFH consultations.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 9, the FMP for the Coral and Coral Reefs of the Gulf of Mexico, the 2006 Consolidated FMP for Atlantic

Highly Migratory Species, the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule is not an Executive Order 13771 regulatory action because this proposed rule is not significant under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination follows.

A description of the proposed rule, why it is being considered, and the objectives of, and legal basis for this proposed rule are contained in the preamble of this proposed rule at the beginning of the **SUPPLEMENTARY INFORMATION** section and in the **SUMMARY** section. The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new

reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, the requirements of the Paperwork Reduction Act do not apply to this proposed rule.

The proposed action would designate several areas in the Gulf as HAPCs and establish or modify fishing regulations in new and existing HAPCs. In some of the proposed HAPCs the deployment of specific bottom-tending gear would be prohibited. The proposed action would also change the prohibition in the existing HAPCs with fishing regulations to a prohibition on the deployment of the gear as opposed to fishing with the gear. As a result, this proposed action would directly affect federally permitted commercial fishermen fishing for reef fish, shrimp, or sharks. Recreational anglers fishing in the designated HAPCs would also be directly affected by this proposed action, but anglers are not considered business entities under the RFA. Recreational charter vessels and headboats would also be affected by this action but only in an indirect way. Thus, only the effects on federally permitted commercial fishing vessels harvesting reef fish, shrimp, and shark will be discussed. For RFA purposes only, NMFS

has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide.

To determine whether a substantial number of small entities would be affected by the proposed rule, NMFS first describes the characteristics of the Federal commercial reef fish, shrimp, and shark fisheries that operate in the Gulf. NMFS then describes the data available to determine the number of small entities that operate in the proposed HAPCs and applies these data to each proposed HAPC or groups of HAPCs.

With respect to the Gulf reef fish fishery, as of July 14, 2018, there were 841 vessels with valid or renewable Federal Gulf reef fish commercial vessel permits. From 2010 through 2016, an average of 554 federally permitted commercial reef fish vessels per year landed any reef fish

species in the Gulf. These vessels, combined, averaged 6,608 trips per year in the Gulf on which reef fish were landed and 810 other trips. The average annual total dockside revenue (2016 dollars) for these vessels combined was approximately \$52.13 million from reef fish, approximately \$1.32 million from other species co-harvested with reef fish (on the same trips), and approximately \$1.54 million from other trips by these vessels in the Gulf on which no reef fish were harvested or where fishing occurred in other areas. Total average annual revenue from all species harvested by these vessels in the Gulf or other areas was approximately \$54.95 million, or approximately \$99,000 per vessel. These vessels generated approximately 95 percent of their total revenues from reef fish.

Commercial reef fish vessels used a variety of gears in harvesting reef fish. For the period 2010-2016, an average of 68 vessels used longlines and generated revenues of approximately \$250,000 per vessel; 267 vessels used bandit gear generating approximately \$109,000 revenue per vessel; 273 vessels used hook-and-line generating approximately \$27,000 revenue per vessel; 47 vessels used diving gear generating approximately \$13,000 revenue per vessel; and, 6

vessels used other gears generating approximately \$40,000 revenue per vessel. Therefore, all federally permitted commercial vessels fishing for reef fish are assumed to be small entities.

In the Gulf shrimp fishery, brown and white shrimp are the dominant shrimp species in terms of landings, ex-vessel revenues, and number of participating vessels. For the period 2010-2016, an annual average of 3,552 vessels landed approximately 61 million lb (27,669,134 kg) of brown shrimp with an ex-vessel value of about \$206 million; an annual average of 3,914 vessels landed approximately 61 million lb (27,669,134 kg) of white shrimp valued at about \$210 million; an annual average of 175 vessels landed pink shrimp valued at about \$18 million; and, an annual average of 8 vessels landed approximately 154,000 lb (69,853 kg) of royal red shrimp valued at about \$964,000. Not all vessels that landed Gulf shrimp are federally permitted, and not all federally permitted vessels landed shrimp. In 2014, for example, only 74 percent of federally permitted vessels landed shrimp. As of July 14, 2018, there were 1,422 valid or renewable Gulf shrimp commercial permits and 305 valid Gulf royal red shrimp endorsements. The latest data on the

economics and financial conditions of the Gulf shrimp fishery are for 2014. Data for later years are still being processed and compiled by NMFS. Between 2011 and 2014, the average gross revenue from fishing operations of federally permitted shrimp vessels was approximately \$343,000, but net revenue from operations was only about \$8,300. These estimates best approximate expected financial and economic conditions for these vessels in the foreseeable future. Therefore, all federally permitted commercial vessels fishing for shrimp are assumed to be small entities.

The HMS shark fishery is the fishery that most likely would be affected by the proposed action. To commercially fish for sharks, fishermen need to possess a Federal shark directed or incidental permit, or smoothhound shark permit. Shark directed and incidental permits are currently limited access permits, while the smoothhound shark permit is an open access permit. As of September 12, 2018, there were 220 and 267 valid or renewable shark directed and incidental permits, respectively, and 164 valid or renewable smoothhound shark permits. Vessels can possess shark permits in addition to commercial reef fish or shrimp permits. In 2017, there were 18 vessels with limited access

permits that were actively fishing for sharks in the Gulf. Of the 18 vessels, 11 possessed both a shark limited access permit and a commercial reef or shrimp permit, while 7 possessed only a shark limited access permit. These vessels, combined, generated \$4.7 million of revenue from HMS. When tracked back to 2013, these vessels generated an average revenue of \$4.8 million per year, indicating a close match between their 2017 revenue and 2013-2017 average revenue. The 2013-2017 average revenue per vessel was approximately \$267,000. Therefore, all federally permitted commercial vessels fishing for sharks are assumed to be small entities.

As stated earlier in the preamble, the proposed rule would establish 13 HAPCs in which the deployment of specific bottom-tending gear would be prohibited. Unless otherwise noted, the following prohibitions would apply to each of the 13 HAPCs: deployment of bottom longline, bottom trawl, buoy gear as defined in 50 CFR 622.2, dredge, pot, or trap, and bottom anchoring by fishing vessels.

The available data allows NMFS to estimate the number of federally permitted reef fish, shrimp, and shark vessels potentially affected by the proposed rule. Information on

fishing activities in the proposed HAPCs is based on the electronic logbook (ELB) program for commercial shrimp vessels, the vessel monitoring system (VMS) for commercial reef fish vessels, and shark bottom longline observer program (SBLOP) for shark vessels. Available ELB data are for the years 2004-2013, VMS data are for the years 2007-2015, and SBLOP data are for the years 2008-2016.

ELB data are collected from approximately one-third of the federally permitted shrimp vessels, while VMS data collection is required of all federally permitted reef fish vessels. Vessels that were included in the SBLOP are also in the VMS data set because these vessels have both shark and commercial reef fish permits. The VMS and ELB data sets provide data points and number of fishing vessels by area, while the SBLOP data provides some information on the number of fishing sets by shark vessels. Although VMS data are collected from all reef fish vessels, the points refer to the number of times the electronic system detects the vessel in a specific area, but it does not distinguish between fishing and non-fishing activity. In contrast, ELB data points are collected from approximately one-third of permitted shrimp vessels but this occurs every 10 minutes,

which allows NMFS to determine likely fishing activity from non-fishing activity based on vessel speed. Therefore, the ELB data points in this analysis are those that NMFS has determined to represent active shrimp fishing.

Because the VMS, ELB, and SBLOP data sources do not provide information on the number of trips or fishing intensity per vessel, it is not possible to estimate the revenue and profit effects of the proposed rule. Therefore, the extent of economic impacts is based on the number of vessels potentially affected by the proposed rule. In the following discussion, data points and vessels are expressed as annual averages for each of the 13 proposed HAPCs. In addition, only information on bottom longline vessels from VMS data is reported as only these vessels would likely be affected by the proposed rule.

In the Pulley Ridge South Portion A HAPC, ELB data indicate one data point corresponding to one shrimp vessel. VMS data indicate 638 data points corresponding to 11 bottom longline vessels. However, to allow fishing that has historically occurred to continue, the proposed regulations would not prohibit the deployment of bottom longlines. Therefore, longline vessels would not be affected by the

gear prohibitions in this area. SBLOP recorded only two fishing sets by shark longline vessels, which are included in the VMS data set. Based on the above information, the gear prohibitions in this area would not affect a substantial number of small entities.

For the West Florida Wall HAPC, which is located in the southeastern Gulf, ELB did not record any data point or shrimp vessel fishing in the proposed area. VMS recorded 4 data points corresponding to two bottom longline vessels. SBLOP data indicate very low shark fishing effort in the area. Therefore, the proposed gear prohibitions in this area would not affect a substantial number of small entities.

Six new HAPCs would be established in the northeastern Gulf: Alabama Alps Reef, L & W Pinnacles and Scamp Reef, Mississippi Canyon 118, Roughtongue Reef, Viosca Knoll 826, and Viosca Knoll 862/906. For Alabama Alps Reef, ELB recorded one data point corresponding to one vessel and VMS recorded seven data points and one bottom longline vessel. For L & W Pinnacles and Scamp Reef, ELB recorded 2 data points and 1 vessel while VMS recorded 42 data points 3 bottom longline vessels. For Mississippi Canyon 118, ELB

recorded four data points and one vessel while VMS recorded four data points and one bottom longline vessel. For Roughtongue Reef, ELB recorded 1 data point and 1 vessel while VMS recorded 40 data points and 3 bottom longline vessels. For Viosca Knoll 826, ELB recorded one data point and one vessel while VMS recorded one data point and one bottom longline vessel. For Viosca Knoll 862/906, ELB recorded 168 data points and 2 vessels while VMS recorded 8 data points and 2 bottom longline vessels. NMFS notes that shrimp vessels fishing in Viosca Knoll 862/906 are mainly those fishing for royal red shrimp. Vessels with a royal red shrimp endorsement fishing for this species in this area are exempt from the prohibition on bottom-tending gear and would not be affected by this proposed rule. SBLOP reported only two sets by two shark fishing vessels for L & W Pinnacles and Scamp Reef, and none for the other areas. Because of the general location of this group of HAPCs, it is likely that certain vessels could be fishing in multiple HAPCs within this group in any given year. It is also possible that a vessel would fish in different HAPCs from year to year. Thus, the total number of vessels affected by the proposed prohibitions applicable in this group of HAPCs

would be less than the sum of vessels fishing in each HAPC as noted above. Therefore, the gear prohibitions in these six areas would not affect a substantial number of small entities.

The proposed rule would establish three new HAPCs in the northwestern Gulf: AT 047, AT 357, and Green Canyon 852. Both ELB and VMS recorded very few data points and vessels fishing in each of these three areas. ELB recorded at most one data point and one vessel for each of these three areas while VMS recorded at most one data point and one bottom longline vessel in each of the AT 047 and AT 357 HAPCs and none for Green Canyon 852. In addition, no shark fishing sets were observed in these areas. Therefore, the gear prohibitions in these three areas would not affect a substantial number of small entities.

The proposed rule would establish two new HAPCs in the southwestern Gulf: Harte Bank and Southern Bank. ELB recorded at most one data point and one vessel while VMS recorded at most one data point and one bottom longline vessel for Harte Bank HAPC. ELB recorded one data point and one vessel, while VMS recorded no data points or bottom longline vessels for the Southern Bank HAPC. In addition,

no bottom longlining for sharks was observed in these two areas. Therefore, the gear prohibitions in these two areas would not affect a substantial number of small entities.

The proposed action to change the prohibition in the existing HAPCs with fishing regulations to a prohibition on the "deployment" of bottom-tending gear, as opposed to a prohibition on "fishing" with the bottom-tending gear, would have no effects on the revenues of fishing vessels. These vessels do not currently derive any revenues from fishing with bottom-tending gear in any existing HAPCs with fishing regulations. This proposed action would make fishing regulations in existing HAPCs consistent with the regulations in the proposed new HAPCs, and therefore would lessen confusion on the part of fishermen as well as simplify enforcement.

Amendment 9 would also establish eight new deep-water HAPCs without fishing regulations, which would have no accompanying economic effects on small entities. The effects of prohibiting the deployment of dredge fishing gear in all HAPCs that have fishing regulations are included in the discussion of effects for each HAPC. This prohibition would not impact any small entities as there is

no known dredge fishing in any existing or proposed HAPCs.

In summary, there are three Federal fisheries that operate in the proposed HAPCs, and although all of the commercially permitted reef fish, shrimp, and shark vessels are small entities, based on available data only a small number of vessels are estimated to have fished with bottom-tending gear in each of the proposed HAPCs, and all HAPCs combined. Therefore, this proposed rule would not affect a substantial number of small entities.

The information provided above supports a determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. Because this proposed rule, if implemented, is not expected to have a significant economic impact on a substantial number of small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects

50 CFR Part 622

Coral, Fisheries, Fishing, Gulf of Mexico.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: November 4, 2019.

Samuel D. Rauch III,
Deputy Assistant Administrator,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 622 and 635 are proposed to be amended as follows:

**PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND
SOUTH ATLANTIC**

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 622.74 is revised to read as follows:

§ 622.74 Area closures to protect Gulf corals.

For the purposes of this section, fishing gear is deployed if any part of the gear is in contact with the water.

(a) *Florida Middle Grounds HAPC*. Deployment of a bottom longline, bottom trawl, dredge, pot, or trap is prohibited year-round in the area bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (a)

Point	North lat.	West long.
A	28°42.500'	84°24.800'
B	28°42.500'	84°16.300'
C	28°11.000'	84°00.000'
D	28°11.000'	84°07.000'
E	28°26.600'	84°24.800'
A	28°42.500'	84°24.800'

(b) *Tortugas marine reserves HAPC*. Fishing for any

species and bottom anchoring by fishing vessels are prohibited year-round in the areas of the HAPC.

(1) *EEZ portion of Tortugas North HAPC*. The area is bounded by rhumb lines connecting the following points in order: From point A at 24°40.000' N. lat., 83°06.000' W. long. to point B at 24°46.000' N. lat., 83°06.000' W. long. to point C at 24°46.000' N. lat., 83°00.000' W. long.; then along the line denoting the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11434, to point A at 24°40.000' N. lat., 83°06.000' W. long.

(2) *Tortugas South HAPC*. The area is bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (b) (2)

Point	North lat.	West long.
A	24°33.000'	83°09.000'
B	24°33.000'	83°05.000'
C	24°18.000'	83°05.000'
D	24°18.000'	83°09.000'

A	24°33.000'	83°09.000'
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(c) *Pulley Ridge South HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (c)

Point	North lat.	West long.
A	24°58.300'	83°38.550'
B	24°58.300'	83°37.000'
C	24°41.183'	83°37.000'
D	24°40.000'	83°41.367'
E	24°43.917'	83°47.250'
A	24°58.300'	83°38.550'

(d) *Pulley Ridge South Portion A HAPC*. Deployment of a bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in

the area of the HAPC bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (d)

Point	North lat.	West long.
A	24°40.000'	83°41.366'
B	24°39.666'	83°42.648'
C	24°47.555'	83°55.240'
D	24°57.065'	83°48.405'
E	24°52.859'	83°41.841'
F	24°43.917'	83°47.250'
A	24°40.000'	83°41.366'

(e) *West Florida Wall HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (e)

Point	North lat.	West long.
A	26°28.835'	84°47.955'
B	26°28.816'	84°46.754'
C	26°10.471'	84°42.076'
D	26°10.528'	84°44.577'
E	26°25.028'	84°47.986'
F	26°25.100'	84°47.980'
A	26°28.835'	84°47.955'

(f) *Alabama Alps Reef HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in:

Table 1 to paragraph (f)

Point	North lat.	West long.
A	29°16.160'	88°20.525'

B	29°15.427′	88°18.990′
C	29°13.380′	88°19.051′
D	29°14.140′	88°20.533′
A	29°16.160′	88°20.525′

(g) *L & W Pinnacles and Scamp Reef HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (g)

Point	North lat.	West long.
A	29°18.595′	87°48.757′
B	29°18.484′	87°50.688′
C	29°19.754′	87°52.484′
D	29°20.401′	87°51.449′
E	29°20.095′	87°50.933′

F	29°20.832'	87°46.631'
G	29°21.473'	87°46.326'
H	29°21.314'	87°45.535'
I	29°22.518'	87°43.465'
J	29°21.144'	87°42.632'
K	29°19.269'	87°45.525'
A	29°18.595'	87°48.757'

(h) *Mississippi Canyon 118 HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (h)

Point	North lat.	West long.
A	28°53.183'	88°30.789'
B	28°53.216'	88°27.819'

C	28°50.602'	88°27.782'
D	28°48.944'	88°27.759'
E	28°48.962'	88°30.727'
A	28°53.183'	88°30.789'

(i) *Roughtongue Reef HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (i)

Point	North lat.	West long.
A	29°27.596'	87°37.527'
B	29°27.621'	87°31.552'
C	29°25.007'	87°31.539'
D	29°24.981'	87°37.510'
A	29°27.596'	87°37.527'

(j) *Viosca Knoll 826 HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (j)

Point	North lat.	West long.
A	29°10.920'	88°03.509'
B	29°10.877'	87°59.460'
C	29°07.974'	87°59.448'
D	29°08.017'	88°03.532'
A	29°10.920'	88°03.509'

(k) *Viosca Knoll 862/906 HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC. This prohibition does not apply to a fishing vessel issued a Gulf royal red shrimp endorsement, as specified in § 622.50(c), while the vessel is fishing for royal red shrimp. The HAPC is bounded

by rhumb lines connecting the following points in order:

Table 1 to paragraph (k)

Point	North lat.	West long.
A	29°07.640'	88°23.608'
B	29°07.603'	88°20.590'
C	29°03.749'	88°20.554'
D	29°03.734'	88°22.016'
E	29°02.367'	88°21.998'
F	29°02.281'	88°24.972'
G	29°07.568'	88°25.044'
H	29°07.592'	88°25.044'
I	29°07.676'	88°25.045'
A	29°07.640'	88°23.608'

(1) *McGrail Bank HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines

connecting the following points in order:

Table 1 to paragraph (l)

Point	North lat.	West long.
A	27°59.100'	92°37.320'
B	27°59.100'	92°32.290'
C	27°55.925'	92°32.290'
D	27°55.925'	92°37.320'
A	27°59.100'	92°37.320'

(m) *AT 047 HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (m)

Point	North lat.	West long.
A	27°54.426'	89°49.404'
B	27°54.486'	89°46.464'

C	27°51.874'	89°46.397'
D	27°51.814'	89°49.336'
A	27°54.426'	89°49.404'

(n) *AT 357 HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (n)

Point	North lat.	West long.
A	27°36.259'	89°43.068'
B	27°36.315'	89°40.136'
C	27°33.703'	89°40.073'
D	27°33.646'	89°43.004'
A	27°36.259'	89°43.068'

(o) *Green Canyon 852 HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap,

and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (o)

Point	North lat.	West long.
A	27°08.354'	91°08.929'
B	27°05.740'	91°08.963'
C	27°05.762'	91°10.610'
D	27°08.376'	91°10.567'
A	27°08.354'	91°08.929'

(p) *West Flower Garden Bank HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (p)

Point	North lat.	West long.
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A	27°55.380'	93°53.160'
B	27°55.380'	93°46.767'
C	27°49.050'	93°46.767'
D	27°49.050'	93°53.160'
A	27°55.380'	93°53.160'

(q) *East Flower Garden Bank HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (q)

Point	North lat.	West long.
A	27°59.240'	93°38.970'
B	27°59.240'	93°34.058'
C	27°52.608'	93°34.058'
D	27°52.608'	93°38.970'

A	27°59.240'	93°38.970'
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(r) *Stetson Bank HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (r)

Point	North lat.	West long.
A	28°10.638'	94°18.608'
B	28°10.638'	94°17.105'
C	28°09.310'	94°17.105'
D	28°09.310'	94°18.608'
A	28°10.638'	94°18.608'

(s) *Harte Bank HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the

following points in order:

Table 1 to paragraph (s)

Point	North lat.	West long.
A	26°40.826'	96°36.590'
B	26°40.789'	96°32.220'
C	26°37.992'	96°32.308'
D	26°38.043'	96°36.636'
A	26°40.826'	96°36.590'

(t) *Southern Bank HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

Table 1 to paragraph (t)

Point	North lat.	West long.
A	27°26.923'	96°31.902'
B	27°26.989'	96°30.881'

C	27°25.958'	96°31.134'
D	27°25.958'	96°31.892'
A	27°26.923'	96°31.902'

PART 635--ATLANTIC HIGHLY MIGRATORY FISHERIES

3. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

4. In § 635.21, revise paragraph (a)(3)(i) and add paragraph (a)(3)(v) to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(a) * * *

(3) * * * (i) No person may fish for, catch, possess, or retain any Atlantic HMS or anchor a fishing vessel that has been issued a permit or is required to be permitted under this part, in the areas and seasons designated at § 622.34(a)(3) of this chapter.

* * * * *

(v) Within the areas of the Gulf coral HAPCs

designated at § 622.74 of this chapter, no person may
bottom anchor a fishing vessel or deploy fishing gear that
may not be deployed pursuant to § 622.74 of this chapter.
For purposes of this provision, fishing gear is deployed if
any part of the gear is in contact with the water.

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